D. PUBLIC INTEREST FAVORS A GRANT FOR STAY

- of providing prompt rendition and delivery of medical and emergency services to the public. A reliable telecommunications infrastructure is paramount for the provision of these services.
- 17. Delaware's unauthorized <u>inter</u>-regional signal emissions will cause <u>harmful interference</u> to the current and/or future 821-824/866-869 MHz Region-20 telecommunications infrastructure. As a result, the safety of the public is in serious compromise and jeopardy.
- 18. Region-20 exists for the sole purpose of promoting the safe welfare of public good. On behalf of the citizens of Region-20, the public interest clearly favors the Commission grant of this MOTION.

III.

CONCLUSION

- 19. Pursuant to 47 CFR 1.41, 1.42, 1.44(e), 1.45(d), 1.298(a), this Committee hereby submits this MOTION.
- 20. Region-20 has fulfilled the requirements that this MOTION a) will prevail on the merits, b) that petitioner will suffer irreparable harm if a stay is not granted, c) that the parties subject to the stay will not be harmed if a stay is granted, and d) the public interest favors a grant for stay.
- 21. Prompt Commission adoption of this MOTION is appreciated by this Committee and Region-20, and is in the public interest.

Respectfully submitted,

Dr. Michael C. Trahos, D.O., NCE, CET Chairman - Region-20 Legislative/

Regulatory Affairs Committee

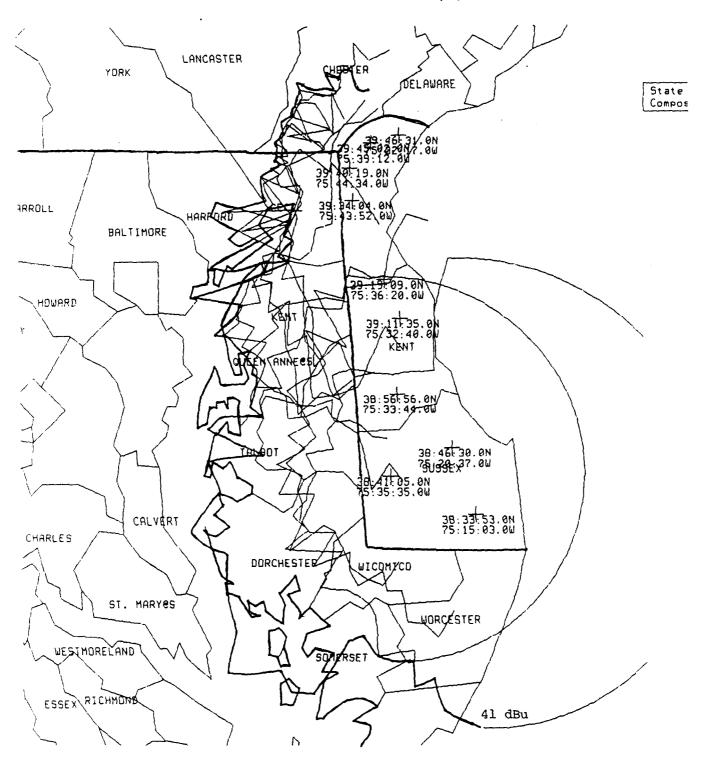
Mr. Stephen H. Souder

Chairman - Region-20 Regional Plan Review Committee IV.

FOOTNOTES

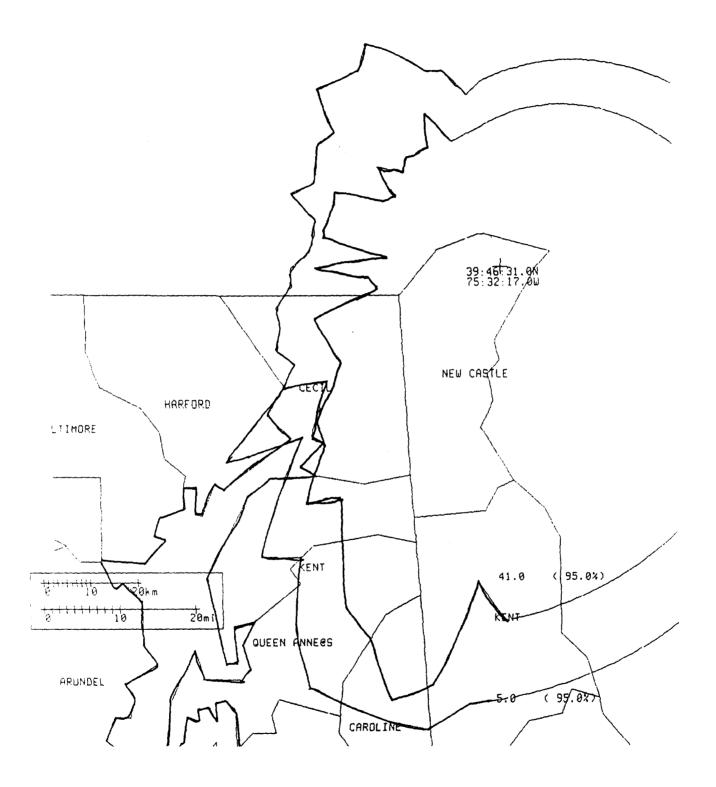
- 1/ REPORT AND ORDER, General Docket No. 87-112, FCC 87-359, November 24, 1987, Paragraph 4.
- 2/ WASHINGTON, D.C. METROPOLITAN AREA REGION 20, General Docket No. 90-7, DA 90-28, January 17, 1990.
- 3/ ORDER, General Docket No. 89-573, Philadelphia Metropolitan Area Public Safety Plan, December 16, 1993, Region-28 Plan, Appendix F-1, Page 38.
- 4/ LETTER, Steve Souder, Chairman Region-20 RPRC to Richard Reynolds, FCC Region-28 Plan Update Committee, July 31, 1996.
- 5/ LETTER, Richard R. Reynolds, Chairman Region-28 Plan Update Committee to Steve Souder, Chairman Region-20, August 29, 1996, Page 2, Answer #1.
- 6/ Ibid., Page 1, Topic #1.
- 7/ <u>Ibid.</u>, Appendix 7 & 8.
- 8/ ATTACHMENT 1
- 9/ Ibid., Footnote 6.
- 10/ ATTACHMENT 2

ATTACHMENT 1 (A)



STATE OF DELAWARE

41 dBu F(95,95) MULTISITE COMPOSITE

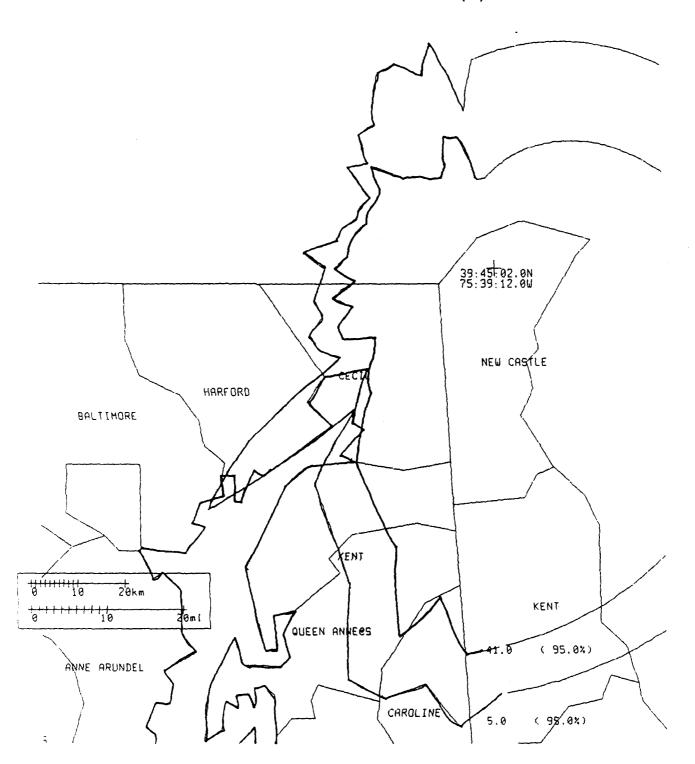


STATE OF DELAWARE

TALLY HIGHWAY YARD, WILMINGTON, DELAWARE

AMSL 71m, AAT 98m, HT 71m, ERP 684W

ATTACHMENT 1 (C)

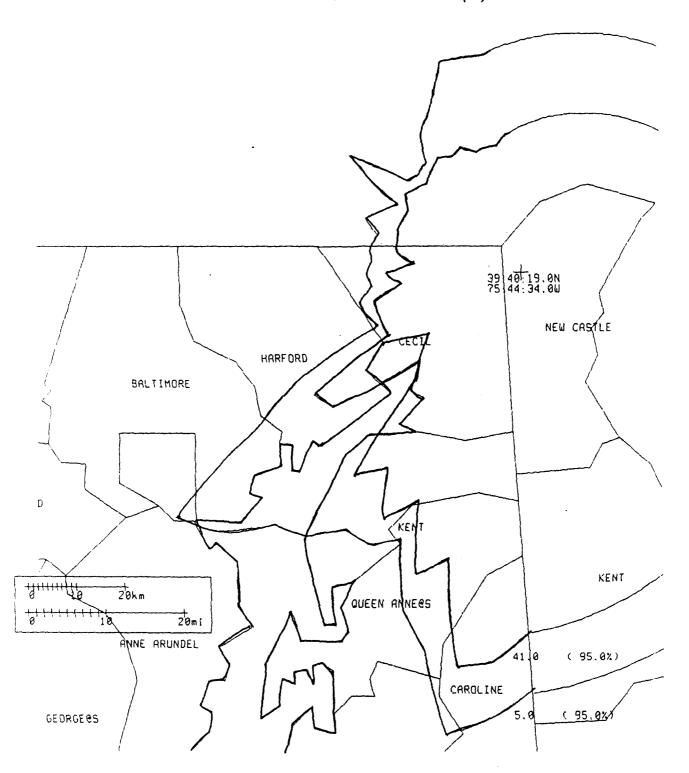


STATE OF DELAWARE

BISSELL HOSPITAL, WILMINGTON, DELAWARE

AMSL 30m, AAT 82m, HT 82m, ERP 684W

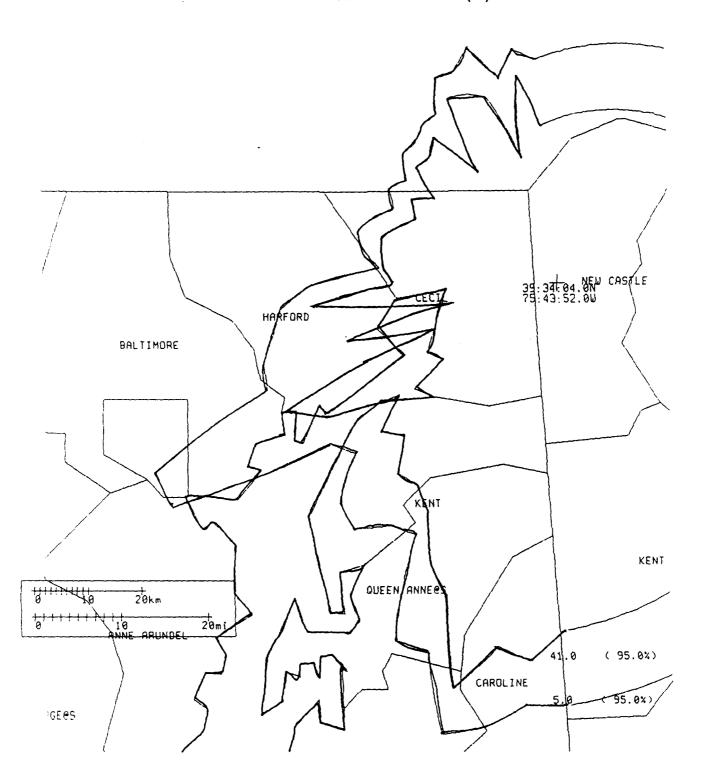
ATTACHMENT 1 (D)



STATE OF DELAWARE

UNIVERSITY OF DELAWARE, NEWARK, DELAWARE

AMSL 30m, AAT 64m, HT 90m, ERP 715W

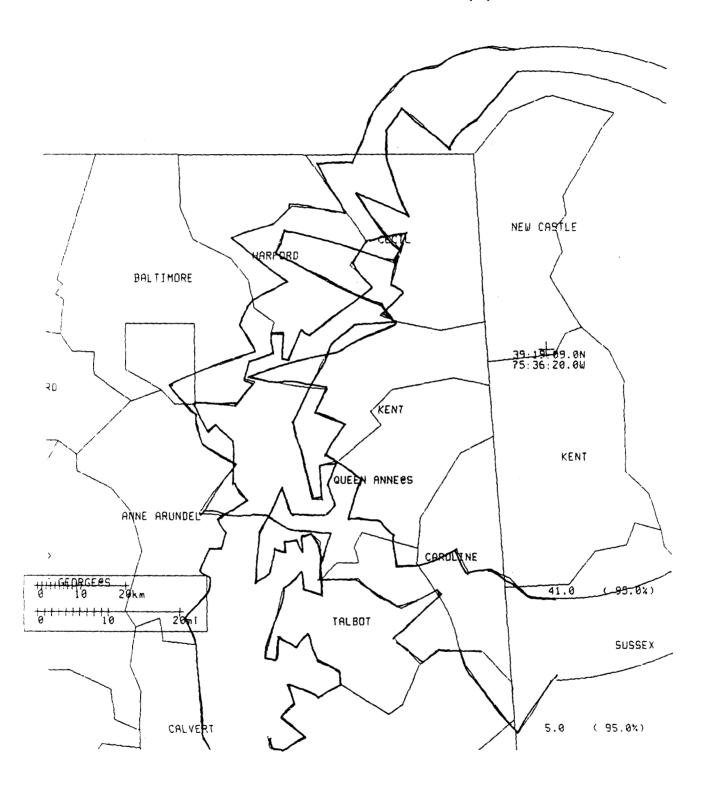


STATE OF DELAWARE

LUMS POND STATE PARK, CHESAPEAKE CITY, DELAWARE

AMSL 12m, AAT 71m, HT 70m, ERP 430W

ATTACHMENT 1 (F)

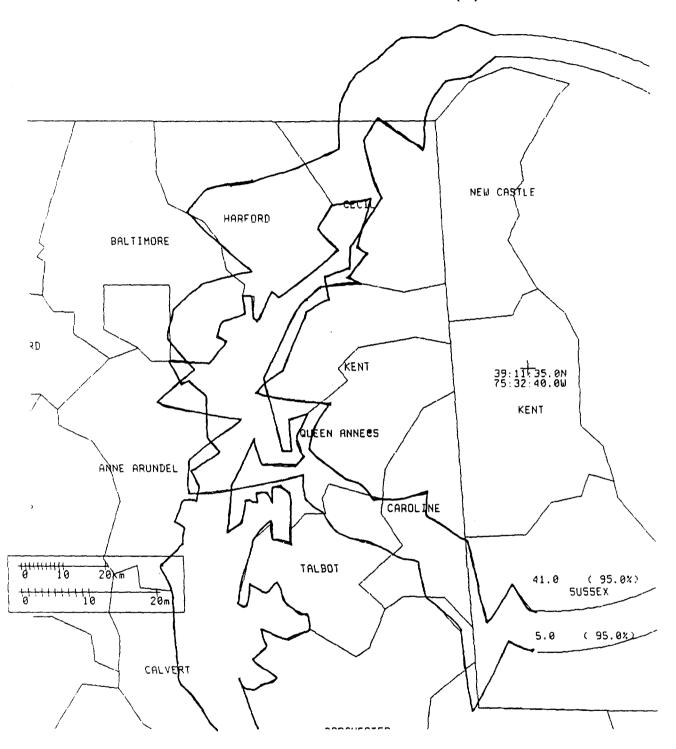


STATE OF DELAWARE

ROUTE 488, SMYRNA, DELAWARE

AMSL 9m, AAT 77m, HT 90m, ERP 398W

ATTACHMENT 1 (G)

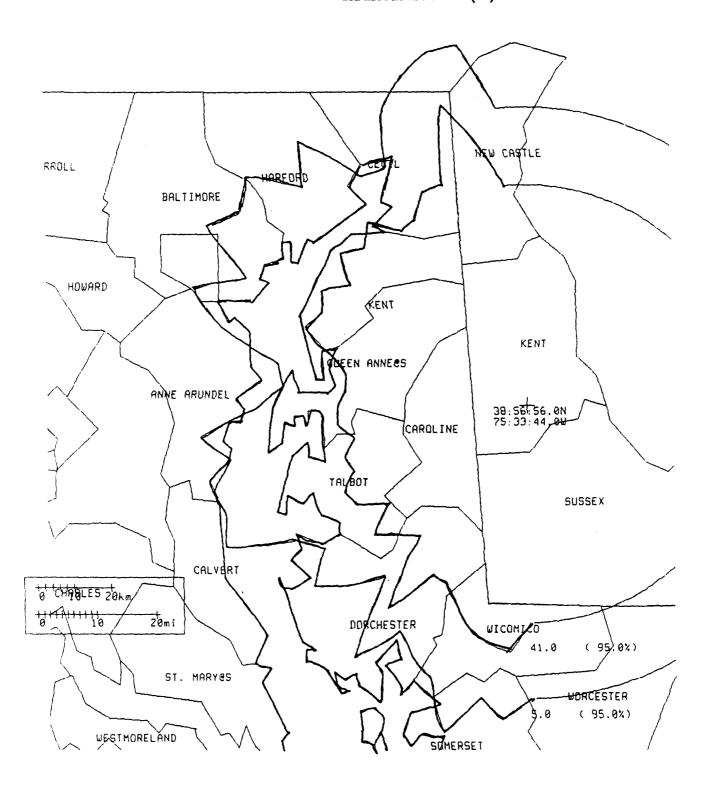


STATE OF DELAWARE

DELAWARE STATE POLICE HEADQUARTERS, DOVER, DELAWARE

AMSL 5m, AAT 92m, HT 98m, ERP 356W

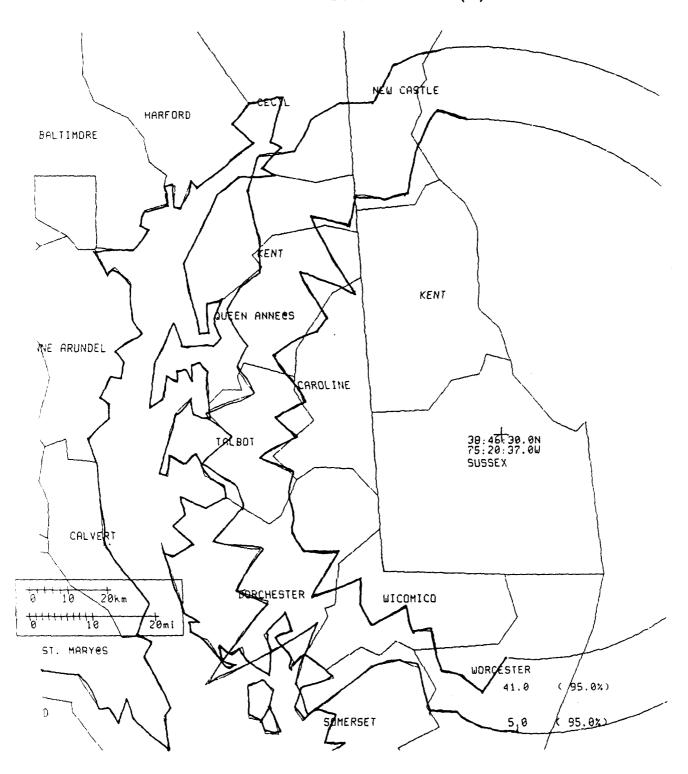
ATTACHMENT 1 (H)



STATE OF DELAWARE

KILLEN STATE PARK, FELTON, DELAWARE
AMSL 15m, AAT 144m, HT 143m, ERP 246W

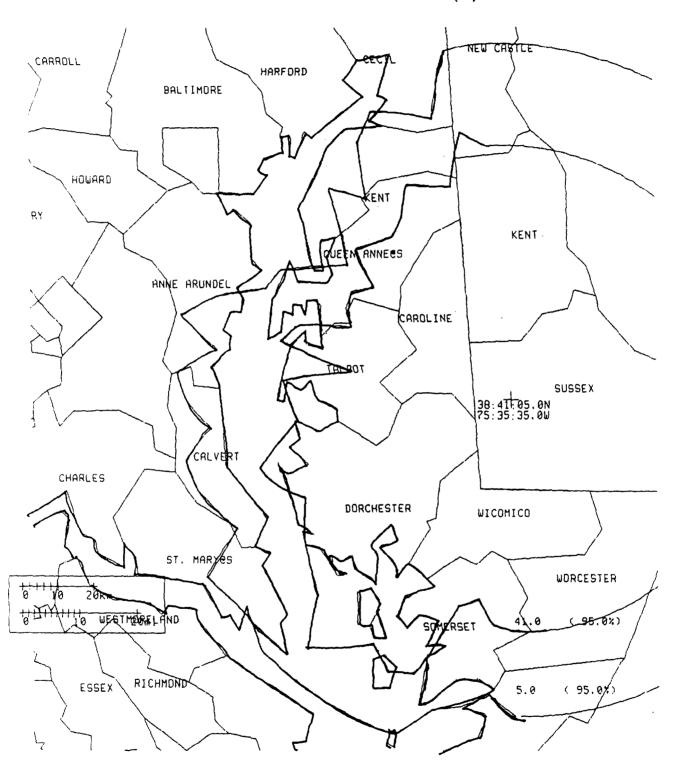
ATTACHMENT 1 (I)



STATE OF DELAWARE
ROUTE 30, MILTON, DELAWARE

AMSL.6m, AAT 133m, HT 138m, ERP 521W

ATTACHMENT 1 (J)

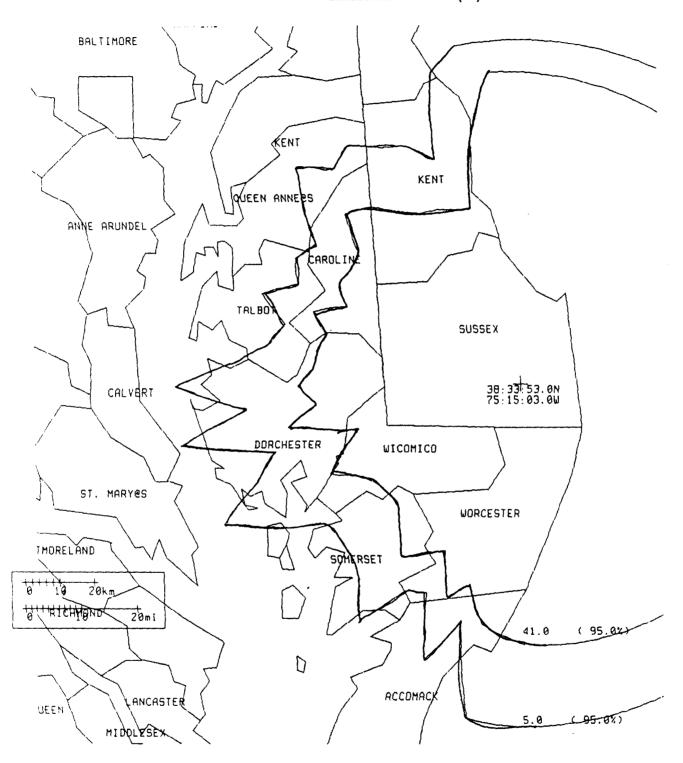


STATE OF DELAWARE

SEAFORD HIGHWAY YARD, SEAFORD, DELAWARE

AMSL 6m, AAT 131m, HT 143m, ERP 503W

ATTACHMENT 1 (K)



STATE OF DELAWARE

DAGSBORO FIRE TOWER, DAGSBORO, DELAWARE

AMSL 6m, AAT 148m, HT 152, ERP 482W

Delaware

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ARGED IN SEX CRIME: A lamder man was arrested noon on sexual offense ite police apokeamen Lt. riin seld describes investigated by the sexual s ARGED IN SEX CRIME: A

FACES DRIAS CHARGEST.

J. Common Comm drug persphernelle. He is the Wicordico County De-r in lieu of \$15,000 bond. ry stopped Singh Bewe's violation and in the course pation received permiss vehicle. The search yield marituans and \$2,000.

IC FIGHT AND DRUGS: ce officers responding to a rbance Thursday right at 200 block of Bread Street 200 block of Bried Street two occupants oft drug part Lee Schooffled, 19, with pibelenistin of occupants instructe, desention of drug persphensing held in the (Rooritoo) too. Center littler, testing to bell. Police sites otherped strifflend Arry Marts Ward, sealon of drug persphenistics of drug persphenistics of drug persphenistics with the control of drug persphenistics and white investigating a said white investigating. said while investigating implaint, officers were invalence and spotted a smoke controlled subjectioning, both occurrence inches amount according to the controlled amount in the controlled amoun

Camden scolded for closed-door meetin

by J.L. MILLER

CAMDEN — The state attorney general's office has chastised Camden for violating the Freedom of Information Act in approving a controversial resoning and then failing to hold another hearing on

While the state stopped short of ordering Town Council to hold a new hearing on the rezoning for a proposed 294-unit manufactured-

home development, it urged the town to do so voluntarily.

In an opinion dated Monday, Deputy Attorneys General W. Michael Tupman and Kevin R. Slattery took the town to task for "troubling" violations of the openmeeting law, citing an "ongoing pattern of infractions."

"Full public participation might have been denied because of

might have been denied because of inadequate notice [that the matter was going to be considered], both the language and the spirit of [the

law are violated, and the strong public policies of the open meeting laws are thwarted," they wrote.

laws are thwarted," they wrote.

At the heart of the controversy is a Dec. 5 meeting on the rezonling for Applewood Farms. A complaint by members of the Concerned Citizens of Camden resulted in a June 3 attorney general's finding that the meeting violated three provisions of the Freedom of Information Act. tion Act:

■ The hearing notice failed to specify that an executive session

would be held, that the agenda had been amended and that council would vote on the rezoning.

would vote on the rezoning.

Council went into a closeddoor session without a formal vote
and without specifying the purpose.

No minutes of the executive
session were prepared.

Under the Freedom of Information Act, the citizens' group or the
attorney general's office can ask
Chancery Court to void the rezoning decision.

Kirk Albertson and Janice

Nichol, who filed the comp "will strongly consider our avenues." Albertson said Fri-

"We are sure the Inewly el mayor and Town Counci make every effort to reconci violations and follow the r mendations of the attorne eral's office." Albertson said.

Glenn E. Hitchens, the t attorney, did not return calle ing comment on whether the will hold a new hearing.

275-foot radio tower protested

Weldin Ridge residents picket the site as work resumes. They want Gov. Carper to pick another location for the state facility.

By ROBIN BROWN Staff reporter

BRANDYWINE HUNDRED BRANDYWINE HUNDRED

Building resumed on a controversial radio tower Friday morning as about 60 neighbors picketed the Talley Road site, waving handmade signs.

Residents of Weldin Ridge also applied for court orders to halt construction of the 275-foot tower, part of a statewide emergency communication system ex-

gency communication system ex-pected to be shared with dellular telephone antennas.

telephone antennas.

"The tower will be almost as tail as the Statue of Liberty," said teacher and businesswoman Hansa R. Shah, 55, of David Court. "If we had known that, we would not have bought our house."

Gov. Carper had ordered that a second site be found after Weldin Ridge's outcry. But the New Castle County Board of Adjustment last week rejected variances for the second site, at Interstate 96'a Marsh Road salt yard. Friday, opsonemt Dasted Carper for not seeking a third site.

sonshti blasted Carper for not seeking a third site.
Dr. Allan Tocker, a leader of the Weldin Ridge protest, called the Board of Adjustment's vote "a gross miscarriage of justice."
Tocker said he's dumbfounded Carper authorized tower work to

carper authorized tower work to resume after his office acknowl-edged that neighbors were not no-tified adequately of the Talley Road tower plan before the Feb. 1



The News Journal CHUCK McGOWET Weldin Ridge residents Friday protest the construction of a 275-foot radio tower off Tailey Road. They say the state should look for another site for the emergency communications system tower.

board hearing where variances were granted,

"We obviously listened to the "We obviously listened to the residents' concern and bent over backward to find another site," said Jeffrey W. Bullock, Carper's chief of staff. But Carper had always said the tower would go at Talley Road if the second site wasn't approved, according to Bullock.

There isn't time to find a third Mic. Bullock said, citing the "very real public safety need" to get the towers erected for September testing so the emergency communica-tion system can be started Jan. 1.

"There are other viable sites," contended elementary school teacher Debbie Stuebing, 30, whose home is closest to the site. "We feel victimized by the state, how this was done.

County Councilman Richard

C. Cecil, R-Forest Hills Park, carried a sign, as did three genera-tions of the Kostas family of Weldin Ridge, Jamie, 7, made his own sign: "Gov. Carper, no tower near our playground."

"This was supposed to be our dream home," said retired school worker Jean O'Conneil, 72. She pointed at her home on David Court's cul-de-sac, facing the tower site. "There's nothing in be-

Attorney Daniel R. Losco said the lawsuit he filed "is not an ap-peal of the Board of Adjustment decision," but a three-pronged ef-fort to void the site decision:

The state broke its own law of notifying local governments of plans for a major facility. New Castle County already had recorded construction plans for Weldin Ridge's 65 homes.

The Board of Adjustment's variances were void because of inadequate community notificainaucquate community notifica-tion and lack of a three-member quorum. The suit says Acting Chairman Robert P. McWilliams should not have counted toward the quorum or led the hearing because, as a state employee, he ab-stained from voting on variances for Talley Road and other state

■ The tower site lacks the correct type of variance, with a special exception to place it there and an area variance for being 52 feet from the nearest property, rather than the mandated onethird of the tower height. The state should have gotten a special use variance, the suit says, requiring County Council approval that the other variances don't.

Configuration Manual Street

75 figh fire at plant

Cheswold bla burns 2½ hou

BY TED CADDELL

CHESWOLD - Nearly 7 fighters fought for more that and a half hours early Fric bring a chemical fire unde-trol at a plant south of Che

trol at a plant south of Che
Smoke from the fire sen
company employees to Kent
eral Hospital, but they we
leased after examination.
Chief Jeff Eisenbrey o
Cheswold Fire Company sai
call went out at about 11:0
Thursday at the Reichhold C
cals plant on Fork Branch
south of Cheswold. Four 554
drums of chemicals used in drums of chemicals used in production as well as a ma used to warm up the chemid the production process were ing, sending smoke and vi-throughout the third floor of

The company's own fire b had already turned a house warmer, and volunteer fires rigged up two more to cool the machine, and then extin the blaze inside.

The situation was declunder control at 1:30 a.m.;

Firefighters from the Ro Hose of Dover, Leipsic, Gla and the Citizens Hose of Ba companies, as well as Kent C paramedics and the America rion amblance assisted.

Two injured in crash



The Name Journal BRIAN SPANCH PRICE An 81-year-old Greenville women is pulled from her car by Talleyville vol-unteer firefighters Friday after her car was struck by another vehicle as

Restaurant fetes police, firefighter

Site of shooting to say thank you for help

By J.L. MILLER

DOVER --- When shotgun pellets ripped through the windows of a downtown restaurant on a gray February afternoon, police quickly brought the situation under con-trol and arrested the suspected

Exactly six months later, the po-lice and firefighters who helped defuse a potentially deadly situa-

also for Smyrna police as well as the Robbins Hose fire depart-ment," Catherine Moore, owner of C Moore's Place, said Friday.

"These folks actually went above and beyond the call of duty in our incident of Feb. 11," she said. "We really want to recognize them"

Police arrested Boris O. Seminov, who was charged with firing two shots at C Moore's Place in an attempt to intimidate the restaurant's black patrons. Seminov is awaiting trial in Superior Court.

On Aug. 11, Moore will celebrate the second anniversary of hopefully we can get the governd the mayor and all those on hand," Moore said.

The highlight of the evil be "A Dinner Theater t member," a theatrical revi Loretta Moore's V.L.M. Protion Company.

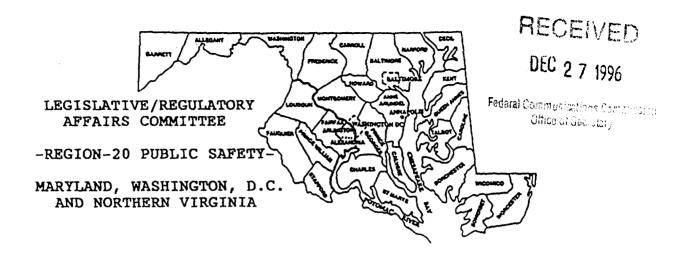
Loretta Moore -- no relati Catherine — is a writer, wright and composer of ori musical productions.

The revue, which will in comedy sketches and must gins at 6 p.m.

The anniversary celebrata

REGION-20 PUBLIC SAFETY LEGISLATIVE/REGULATORY AFFAIRS COMMITTEE

EXHIBIT B



Before the FEDERAL COMMUNICATIONS COMMISSION Washington, DC 20554

In the Matter of)	GN Docket No. 89-573			
)	File No. 9505503540 (WPIQ-290)			
State of Delaware)	File No. 9505503541 (WPIQ-294)			
Station License Authorizations)	File No. 9512D010528 (WPIZ-596)			

REPLY COMMENTS FILED IN RESPONSE TO OPPOSITION TO MOTION FOR EMERGENCY INJUNCTIVE STAY

Submitted by:

Region-20 Public Safety Review Committee Legislative/Regulatory Affairs Committee Dr. Michael C. Trahos, D.O., NCE, CET - Chairman 4600 King Street, Suite 4E Alexandria, Virginia 22302-1213

December 27, 1996



MICHAEL C. TRAHOS, D.O. GENERAL MEDICINE/FAMILY PRACTICE

Before the FEDERAL COMMUNICATIONS COMMISSION Washington, DC 20554

In the Matter of)		GN	Docket No. 8	39-573
)	File	No.	9505503540	(WPIQ-290)
State of Delaware)	File	No.	9505503541	(WPIQ-294)
Station License Authorizations)	File	No.	9512D010528	3 (WPIZ-596)

REPLY COMMENTS FILED IN RESPONSE TO OPPOSITION TO MOTION FOR EMERGENCY INJUNCTIVE STAY

Submitted by: Region-20 Public Safety Review Committee Legislative/Regulatory Affairs Committee

Dr. Michael C. Trahos, D.O., NCE, CET - Chairman

4600 King Street, Suite 4E Alexandria, Virginia 22302-1213

Date: December 27, 1996

I. INTRODUCTION AND EXECUTIVE SUMMARY

1. Before the Federal Communications Commission (Commission) is a MOTION FOR EMERGENCY INJUNCTIVE STAY (MOTION), filed pursuant to 47 CFR 1.41, , 1.42, 1.43, 1.44(e), 1.45(d) and 1.298(a) of the Commission's Rules. Opposition comments have been submitted by the Deputy Attorney General's Office of the Department of Justice for the State of Delaware (Delaware).1/

Before the FEDERAL COMMUNICATIONS COMMISSION Washington, DC 20554

In the Matter of)		GN	Docket No. 89	9-573
)	File	No.	9505503540	(WPIQ-290)
State of Delaware)	File	No.	. 9505503541	(WPIQ-294)
Station License Authorizations)	File	No.	. 9512D010528	(WPIZ-596)

REPLY COMMENTS FILED IN RESPONSE TO OPPOSITION TO MOTION FOR EMERGENCY INJUNCTIVE STAY

Submitted by: Region-20 Public Safety Review Committee Legislative/Regulatory Affairs Committee Dr. Michael C. Trahos, D.O., NCE, CET - Chairman

4600 King Street, Suite 4E

Alexandria, Virginia 22302-1213

Date: December 27, 1996

I. INTRODUCTION AND EXECUTIVE SUMMARY

Before the Federal Communications Commission (Commission) is a MOTION FOR EMERGENCY INJUNCTIVE STAY (MOTION), filed pursuant to 47 CFR 1.41, , 1.42, 1.43, 1.44(e), 1.45(d) and 1.298(a) of the Commission's Rules. Opposition comments have been submitted by the Deputy Attorney General's Office of the Department of Justice for the State of Delaware (Delaware).1/

- 2. Pursuant to the authority given by the Commission under the Report and Order in General Docket No. 87-112 2/, the Region-20 Public Safety Planning Committee was created to address the future communications needs and concerns of the PSRS users for Region-20. The obligations of that Committee included the submission to the Commission of a Region-20 Public Safety Radio Communications Plan (Region-20 Plan) 3/ and establishment of a Region-20 Public Safety Review Committee (Committee) to oversee its implementation.
- 3. This Committee, representing the PSRS/governmental constituents for Region-20 and pursuant to 47 CFR 1.45(b), hereby timely submits the following REPLY COMMENTS in response to the opposition to the MOTION requesting the Commission invoke EMERGENCY INJUNCTIVE STAY on Delaware's statewide radio station license authorizations, WPIQ-290, WPIQ-294 & WPIZ-596, prohibiting further construction and implementation of said radio system. This injunction shall continue until such time that Delaware files and Effective Radiated is granted an (ERP)/Antenna Height Power reduction modification of all transmitter sites of said license authorizations, so as to completely comply with 47 CFR 90.621(q) of the Commission's rules, the "three (3) mile outside of boundary" 40 dBu contour limitation requirements of the Region-28 Plan (GN Docket No. 89-573), and adjacent region concurrence requirements pursuant to the Report and Orders in GN Docket No. 87-112, Docket No. 89-573 and GN Docket No. 90-7.

REPLY COMMENTS

II.

- 4. The original MOTION requested the Commission invoke an EMERGENCY INJUNCTIVE STAY on Delaware's 821-824/866-869 MHz radio station licenses for having failed to comply with the federal statute 47 CFR 90.621(g), and Report & Orders in GN Docket No. 87-112, GN Docket No. 89-573 and GN Docket No. 90-7.4/ In opposition comments filed in response to this MOTION, Delaware fails to dispute this Committee's continued assertion that it submitted applications and was granted radio station licenses in violation of federal statutes and Commission Orders.
- 5. In the MOTION, this Committee submitted detailed engineering documentation, based upon Commission licensing data, which clearly showed that Delaware violated Commission rules and regulations. 5/ Delaware, in their opposition filing, could have submitted similar engineering documentation (see paragraph 8 infra) to refute this Committee's assertions, but did not!
- 6. In its opposition, Delaware appears to indirectly admit to the asserted federal statute violations. They state that "[e]ver if there were any actual interference in eastern Maryland caused by Delaware's 800 System, relief 'at the expense of similar hard caused another' does not warrant a stay".6/

- 7. In addition to the violations noted in paragraph 4 <u>supra</u>,
 Delaware violated 47 CFR 90.205 of the Commission's rules. 47 CFR
 90.205 states that "Applicants for licenses must request and use no more power than the actual power necessary for satisfactory operations."7/
- 8. When Delaware initially submitted its applications to the Region-28 Plan Update Committee for review and approval, it was required to submit detailed engineering documentation showing that the proposed ERP from each transmitter site would not generate 40 dBu F(95,95) signal strength contours exceeding the "three (3) mile outside of boundary" rule of the Region-28 Plan.8/ Pursuant to 47 CFR 90.205, Delaware should only have applied for that ERP necessary to comply with the "three (3) mile outside of boundary" rule.
- If the 40 dBu contours were to have extended beyond the three mile out of boundary limitation (i.e. three miles beyond the Delaware State line into Maryland), either under initial license subsequent license modifications to applications or increase authorized ERPs because post construction and testing revealed inefficiencies system coverage, then Delaware was supposed in have obtained written adjacent Region-20 approval for encroachment <u>before</u> such license applications were submitted Commission authorization, not after! And as was stated the

MOTION, inter-regional concurrence for Delaware's 40 dBu contours to encroach into Region-20 was not properly obtained prior to the Commission issuance of Delaware's current license grants.9/

10. Delaware's argument that because future Commission corrective relief is available should harmful interference be caused to Region-20 10/ is unrealistic. With no disrespect to the overburdened Compliance and Information Bureau, the Commission's record in the handling such cases is less than adequate and often require multiple years to resolve.

III.

CONCLUSION

- 11. Pursuant to 47 CFR 1.45(b), this Committee hereby submits these REPLY COMMENTS.
- 12. Delaware's opposition comments focus strictly on the legality of the MOTION. However, Delaware has failed to demonstrate that it did not violate federal statues and Commission Orders as asserted in the MOTION and reiterated in these REPLY COMMENTS.
- 13. Commission failure to adopt the MOTION will further make it nearly impossible for Region-20 to comply with the Commission's demands, in the recent adopted GN Docket No. 90-7/GN Docket No. 89-573 Order, to effectuate mutually acceptable inter-regional

coordination procedures. 11/ This is because the Order discriminates and unlaterally requires provide Region-20 to protection to Region-28, but Region-28 does not need to reciprocate and Delaware & Region-28 are allowed to maintain the status quo.

For the reasons set forth in the MOTION and these 14. REPLY COMMENTS, prompt Commission grant of this MOTION is appreciated by this Committee and Region-20, and is in the public interest.

Respectfully submitted,

Dr. Michael C. Trahos, D.O., NCE, CET Chairman - Region-20 Legislative/

Regulatory Affairs Committee

Mr. Stephen H. Souder Chairman - Region-20 Regional Plan Review Committee

IV.

FOOTNOTES

- 1/ OPPOSITION, GN Docket No. 89-573, State of Delaware Department of Justice, December 18, 1996.
- <u>2/ REPORT AND ORDER</u>, General Docket No. 87-112, FCC 87-359, November 24, 1987, Paragraph 4.
- 3/ WASHINGTON, D.C. METROPOLITAN AREA REGION 20, General Docket No. 90-7, DA 90-28, January 17, 1990.
- 4/ MOTION FOR EMERGENCY INJUNCTIVE STAY, GN Docket No. 89-573, Region-20 Public Safety Review Committee, December 12, 1996, Paragraph 3.
- 5/ Ibid., at Attachment 1.
- 6/ Ibid., Footnote 1, at Page 11.
- 7/ 47_CFR 90.205, 10-1-95 Edition.
- 8/ ORDER, General Docket No. 89-573, Philadelphia Metropolitan Area Public Safety Plan, December 16, 1993, Region-28 Plan, Appendix F-1, Page 38.
- 9/ Ibid., Footnote 4 at Paragraph 10.
- 10/ Ibid., Footnote 1 at Page 5.
- 11/ ORDER, DA 96-2066, GN Docket Nos. 90-7 and 89-573, December 9, 1996, Paragraph 11.